



DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3575

RIN #0575-AC92

Community Programs Guaranteed Loans

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS) proposes to amend the regulations utilized to service the Community Facilities Guaranteed Loan Program by amending the regulation in two separate sections, in order to clarify the types of projects that are eligible for a Community Facilities Guaranteed Loan. The intended effect of this action is to strengthen the Community Facilities Guaranteed Loan Program by limiting the risk to the guaranteed loan portfolio. RHS is seeking to prohibit the financing of facilities in which the operation of such facilities have not been supported by the community and

have resulted in significant default and loan losses to the agency.

DATES: Written or e-mail comments must be received on or before [INSERT DATE 60 DAYS AFTER THE PUBLICATION DATE IN THE FEDERAL REGISTER] .

ADDRESSES: You may submit comments to this rule by any of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>.  
Follow the instructions for submitting comments.
- Mail: Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW, Washington DC 20250-0742.
- Hand Delivery/Courier: Submit written comments via Federal Express Mail or another courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7<sup>th</sup> Street, SW, 7<sup>th</sup> Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at the 300 7<sup>th</sup> Street, SW, 7<sup>th</sup> Floor, address listed above.

FOR FURTHER INFORMATION CONTACT: Kendra Doedderlein, Community Programs Senior Loan Specialist, Rural Housing Service, U.S. Department of Agriculture, STOP 0787, 1400 Independence Ave. SW., Washington, DC 20250-0787, Telephone: (202)720-1503.

SUPPLEMENTARY INFORMATION:

**Executive Order 12866**

The proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

**Programs Affected**

The Catalog of Federal Domestic Assistance Program impacted by this action is 10.766, Community Facilities Loans and Grants.

**Executive Order 13175, Consultation and Coordination with Indian Tribal Governments**

Executive Order 13175 imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that the proposed rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and

responsibilities between the Federal Government and Indian tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If a tribe determines that this rule has implications of which Rural Development is not aware and would like to engage in consultation with Rural Development on this rule, please contact Rural Development's Native American Coordinator at (720) 544-2911 or [AIAN@wdc.usda.gov](mailto:AIAN@wdc.usda.gov).

#### **Executive Order 12372, Intergovernmental Review**

This program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each loan in the manner delineated in 7 CFR part 3015, subpart V.

#### **Executive Order 12988, Civil Justice Reform**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted, before bringing suit in court challenging action taken under this rule.

## **Environmental Impact Statement**

The action has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." The Agency has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., an Environmental Impact Statement is not required.

## **Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. chapters 17A and 25, established requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RHS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. This rule

contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

### **Regulatory Flexibility Act**

The rules have been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). Under Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency has determined and certified by signature of this document that the rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program. Furthermore, the program does not treat entities differently based solely on their size.

### **Executive Order 13132, Federalism**

The policies contained in the rule does not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor do the rules impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

## **Implementation**

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall comply with 5 U.S.C. 553, notwithstanding the exemption of that section with respect to such rules.

## **Paperwork Reduction Act**

The revisions in this rulemaking for part 3575 are subject to the burden package assigned OMB control number 0575-0137. No paperwork changes are being proposed.

## **Executive Order 12372, Intergovernmental Review of Federal Programs**

This proposed rule is not subject to the provisions of EO 12372, which require intergovernmental consultation with State and local officials, because this rule provides general guidance on something. Applications for Agency programs will be reviewed individually under EO 12372 as required by program procedures.

## **E-Government Act Compliance**

The Agency is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen

access to Government information and services, and for other purposes.

## Discussion

The Community Facilities Guaranteed Loan Program bolsters the credit available from private lending institutions through the guarantee of loans for essential community facilities in rural areas. This program has been in existence since 1992, and as it evolves, the need to define and revise terms is required.

Section 3575.24(a)(1)(x) currently identifies recreational facilities as eligible types of facilities for financing under this program; however, Agency experience shows that the current language is too brief and subject to different interpretation by prospective applicants and other program users. Therefore, the Agency proposes to revise the paragraph to more clearly convey to the public the Agency's policy with respect to the financing of essential community facilities that provide recreational services as part of addressing overall community development needs.

Section 3575.25 prohibits the financing with guaranteed loan funds on specific types of projects. The Agency proposes to add a paragraph (j) "Golf courses" to this section. This is based upon the Agency's experience to date in financing this type of project and the failure rate the Agency has experienced



on golf course projects. Also, the lack of support demonstrated by the community indicates that a golf course is not essential to a rural community and is typically viewed as a commercial undertaking.

#### **List of Subjects in 7 CFR 3575**

Community facilities, Guaranteed loans, Loan programs

For the reasons set forth in the preamble, XXXV of Subtitle B, title 7, Code of Federal Regulations is proposed to be amended as follows:

#### **PART 3575 - GENERAL**

1. The authority citation for part 3575 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989

#### **SUBPART A - Community Programs Guaranteed Loans**

2. Amend § 3575.24 to revise paragraph (a)(1)(x) to read as follows:

§ 3575.24 Eligible loan purposes.

(a) \* \* \*

(1) \* \* \*

(x) Community parks, community activity centers, and similar types of facilities that are an integral part of the orderly development of a community. Recreational components, such as, but not limited to, playground equipment of an otherwise non-recreational eligible community facility such as childcare, educational, or health care facilities are also eligible.

\* \* \* \* \*

3. Amend § 3575.25 to add paragraph (j) to read as follows:

§ 3575.25 Ineligible loan purposes.

\* \* \* \* \*

(j) Golf courses, water parks, race tracks or other recreational type facilities inherently commercial in nature.

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May 18, 2012

Tammye Treviño  
Administrator  
Rural Housing Service

Date